

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

DEJUAN THORNTON,

Plaintiff,

v.

Case No. 11-13787

Honorable David M. Lawson

COMERICA BANK,

Defendant.

_____ /

ORDER DENYING MOTION TO VACATE

On May 22, 2012, the plaintiff filed a motion to vacate the Court's May 4, 2012 order overruling his objections to the magistrate judge's report and recommendation. The Court will construe this motion as a motion for reconsideration. Motions for reconsideration may be granted pursuant to E.D. Mich. LR 7.1(g)(1) when the moving party to shows (1) a "palpable defect," (2) that misled the court and the parties, and (3) that correcting the defect will result in a different disposition of the case. E.D. Mich. LR 7.1(g)(3). A "palpable defect" is a defect which is obvious, clear, unmistakable, manifest, or plain. *Mich. Dep't of Treasury v. Michalec*, 181 F. Supp. 2d 731, 734 (E.D. Mich. 2002) (citations omitted). However, motions for reconsideration should not be granted when they "merely present the same issues ruled upon by the court, either expressly or by reasonable implication." E.D. Mich. LR 7.1(g)(3).

The Court concludes that the plaintiff has not met his burden of showing a palpable defect by which the Court has been misled or his burden of showing that a different disposition must result from a correction thereof, as required by Local Rule 7.1(g)(3). The plaintiff argues that he did not consent to the referral to the magistrate judge. However, the motions were referred to the magistrate judge for a report and recommendation pursuant to 28 U.S.C. § 636(b). A party's consent is not

required for such a referral. *See* 28 U.S.C. § 636(b)(1); *Holt-Orsted v. City of Dickson*, 641 F.3d 230, 234 (6th Cir 2011) (“[A] § 636(b) referral does not require the consent of the parties . . .”).

The plaintiff’s argument is not well taken, and his motion must be denied.

Accordingly, it is **ORDERED** that the plaintiff’s motion to vacate [dkt. #37] is **DENIED**.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: May 24, 2012

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on May 24, 2012.

s/Deborah R. Tofil
DEBORAH R. TOFIL